

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Kelly Lyon	Team: Squad #10	CCRB Case #: 201904457	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 05/22/2019 3:15 PM	Location of Incident: Broadway and Linden Street	Precinct: 81	18 Mo. SOL 11/22/2020	EO SOL 7/9/2021	
Date/Time CV Reported Wed, 05/22/2019 3:48 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 05/22/2019 3:48 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. DT3 Kelvin Peralta	1514	940561	NARCBBN
2. POM Ramon Rodriguez	13884	949563	NARCBBN

Officer(s)	Allegation	Investigator Recommendation
A.DT3 Kelvin Peralta	Abuse: Detective Kelvin Peralta stopped § 87(2)(b)	
B.POM Ramon Rodriguez	Abuse: Police Officer Ramon Rodriguez stopped § 87(2)(b)	
C.DT3 Kelvin Peralta	Abuse: Detective Kelvin Peralta stopped an individual.	
D.POM Ramon Rodriguez	Abuse: Police Officer Ramon Rodriguez stopped an individual.	
E.DT3 Kelvin Peralta	Discourtesy: Detective Kelvin Peralta spoke discourteously to § 87(2)(b)	
F.DT3 Kelvin Peralta	Abuse: Detective Kelvin Peralta refused to provide his name to § 87(2)(b)	
G.DT3 Kelvin Peralta	Abuse: Detective Kelvin Peralta refused to provide his shield number to § 87(2)(b)	
H.POM Ramon Rodriguez	Abuse: Police Officer Ramon Rodriguez searched an individual.	
I.DT3 Kelvin Peralta	Abuse: Detective Kelvin Peralta threatened to arrest § 87(2)(b)	
J.DT3 Kelvin Peralta	Abuse: Detective Kelvin Peralta failed to provide § 87(2)(b) with a business card.	
K.DT3 Kelvin Peralta	Discourtesy: Detective Kelvin Peralta spoke discourteously to an individual.	
L.POM Ramon Rodriguez	Abuse: Police Officer Ramon Rodriguez failed to provide § 87(2)(b) with a business card.	
M.DT3 Kelvin Peralta	Abuse: Detective Kelvin Peralta failed to provide an individual with a business card.	
N.POM Ramon Rodriguez	Abuse: Police Officer Ramon Rodriguez failed to provide an individual with a business card.	

Officer(s)	Allegation	Investigator Recommendation
§ 87(4-b) § 87(2)(g)	[REDACTED]	[REDACTED]
§ 87(4-b) § 87(2)(g)	[REDACTED]	[REDACTED]
§ 87(4-b) § 87(2)(g)	[REDACTED]	[REDACTED]
§ 87(4-b) § 87(2)(g)	[REDACTED]	[REDACTED]

Case Summary

On May 22, 2019, § 87(2)(b) filed this complaint with the CCRB by phone.

On May 22, 2019, at approximately 3:15 p.m., in the vicinity of Broadway and Linden Street in Brooklyn, § 87(2)(b) approached an unidentified female who he was informed had shoplifted from the store where he worked, § 87(2)(b) located at § 87(2)(b) in Brooklyn. § 87(2)(b) grabbed the handle of the unidentified female's bag when Detective Kelvin Peralta and PO Ramon Rodriguez, of Brooklyn Narcotics North, exited an unmarked police vehicle and allegedly stopped § 87(2)(b) and the unidentified female (**Allegation A, B, C, and D: Abuse of Authority – Stop**, § 87(2)(g)). § 87(2)(b) explained to Det. Peralta and PO Rodriguez that the unidentified female shoplifted from the beauty supply store where he worked. § 87(2)(b) then asked if he was suspected of committing a crime or under arrest and Det. Peralta allegedly said, "Yes, it looked like you were robbing her." § 87(2)(b) stated that he knew his rights and Det. Peralta allegedly said, "Shut the fuck up," (**Allegation E: Discourtesy – Word**, § 87(2)(g)). § 87(2)(b) then asked Det. Peralta for his name and shield number and Det. Peralta allegedly did not provide either (**Allegation F: Abuse of Authority – Refusal to provide name**, § 87(2)(g) and **Allegation G: Abuse of Authority – Refusal to provide shield number**, § 87(2)(g)).

§ 87(2)(b) continued to explain that he was only attempting to recover the stolen merchandise from his store. PO Rodriguez allegedly took the stolen feminine products out of the unidentified female's bag and placed them into a different bag (**Allegation H: Abuse of Authority – Search (of person)**, § 87(2)(g)). § 87(2)(b) asked if he could take the merchandise back to his store and Det. Peralta refused and allegedly told § 87(2)(b) "Get the fuck out of here. I'll arrest you if you don't leave," (**Allegation I: Abuse of Authority – Threat of Arrest**, § 87(2)(g)). § 87(2)(b) asked Det. Peralta again for his name, shield, number and for his business card and Det. Peralta did not provide any of his information (**Allegation J: Abuse of Authority – Failure to provide RTKA card**, § 87(2)(g)).

§ 87(2)(b) and Det. Peralta walked back to the § 87(2)(b) and PO Rodriguez and the unidentified female followed. Det. Peralta spoke to § 87(2)(b)'s manager, § 87(2)(b) who confirmed the stolen merchandise was from the § 87(2)(b) and declined to press charges. PO Rodriguez returned the stolen merchandise to § 87(2)(b). The unidentified female stated that she wanted to press charges against § 87(2)(b) and Det. Peralta allegedly told her to "Get the fuck out," (**Allegation K: Discourtesy – Word**, § 87(2)(g)). Then Det. Peralta and PO Rodriguez left. PO Rodriguez did not provide a business card to § 87(2)(b) and neither Detective Peralta nor PO Rodriguez provided a business card to the unidentified female (**Allegation L, M, and N: Abuse of Authority – Failure to provide RTKA card**, § 87(2)(g), § 87(4-b), § 87(2)(e)).

This incident resulted in no summonses or arrests. Surveillance footage from V.I.M. was obtained but did not capture the individuals involved in the incident (**BR 01**). There was no known video of this incident.

Findings and Recommendations

Allegation (A) Abuse of Authority: Detective Kelvin Peralta stopped § 87(2)(b)

Allegation (B) Abuse of Authority: Police Officer Ramon Rodriguez stopped § 87(2)(b)

Allegation (C) Abuse of Authority: Detective Kelvin Peralta stopped § 87(2)(b)

Allegation (D) Abuse of Authority: Police Officer Ramon Rodriguez stopped § 87(2)(b)

It was undisputed that Det. Peralta and PO Rodriguez stopped and approached § 87(2)(b) as he was pulling on the unidentified female's bag. § 87(2)(g)

§ 87(2)(b) consistently stated (**BR 02, BR 03, and BR 04**) that he was informed by two

teenagers in his store that an unidentified female had shoplifted. § 87(2)(b) followed the unidentified female out of the § 87(2)(b) § 87(2)(b) looked into the unidentified female's bag and saw feminine hygiene products that were sold at his store. § 87(2)(b) said, "Miss, can you please give our stuff back?" and she started walking faster. § 87(2)(b) grabbed the unidentified female's bag where the handle was sewn onto the bag and the unidentified female sat on the ground and held onto her bag.

Det. Peralta and PO Rodriguez drove by and exited their vehicle. Det. Peralta walked up to § 87(2)(b) and grabbed him by the wrist. § 87(2)(b) asked whether he was suspected of a crime and Det. Peralta said, "Yes, it looked like you were robbing her." § 87(2)(b) tried to explain that the unidentified female stole from the beauty supply store where he worked, and the unidentified female accused § 87(2)(b) of hitting her. An unidentified security guard from the V.I.M. clothing store across the street approached and told the officers that he observed the unidentified female in his store and that he suspected she had stolen merchandise from his store as well. Det. Peralta and PO Rodriguez understood that the unidentified female had shoplifted and asked § 87(2)(b) whether he wanted to press charges. § 87(2)(b) declined but asked to reclaim the property and Det. Peralta told him that it was considered lost property so he could not give it to him.

The unidentified female could not be identified by police documents or by any other means. V.I.M. was contacted but the investigation could not confirm the identity of the security guard.

Det. Peralta (**BR 05**) and PO Rodriguez (**BR 06**) consistently stated that they were driving on Broadway on their way to do narcotics field work when they saw § 87(2)(b) and the unidentified female appearing to have a dispute. § 87(2)(b) and the unidentified female were shouting at each other and § 87(2)(b) was pulling the unidentified female's bag. Det. Peralta added that the unidentified female was pulling back on the bag. Det. Peralta and PO Rodriguez asked § 87(2)(b) and the unidentified female to step away from each other. § 87(2)(b) stated that the unidentified female took items from his store and the unidentified female never accused § 87(2)(b) of hitting her. Det. Peralta and PO Rodriguez consistently stated that they stopped to see whether § 87(2)(b) and the unidentified female needed help or police assistance, but they were free to leave throughout the incident. Det. Peralta did not grab § 87(2)(b)'s wrist or ask for his ID.

Det. Peralta's memo book (**BR 07**) stated that the unidentified female was on the ground and § 87(2)(b) was pulling on her purse. Det. Peralta also noted that upon further investigation § 87(2)(b) was upset over the stop. PO Rodriguez's memo book (**BR 11**) states that he observed § 87(2)(b) forcibly removing a bag from an older female.

§ 87(2)(g)

In People v. De Bour, 40 N.Y.2d 210 (1976) (**BR 08**), the court found that officers may stop an individual when the officer has reasonable suspicion that the person has committed, is committing, or is about to commit a felony or misdemeanor.

§ 87(2)(g)

Allegation (E) Discourtesy: Detective Kelvin Peralta spoke discourteously to § 87(2)(b)

Allegation (H) Abuse of Authority: Police Officer Ramon Rodriguez searched § 87(2)(b)

Allegation (I) Abuse of Authority: Detective Kelvin Peralta threatened to arrest § 87(2)(b)

Allegation (K) Discourtesy: Detective Kelvin Peralta spoke discourteously to § 87(2)(b)

It was undisputed that the feminine hygiene products were recovered from the unidentified female's bag. § 87(2)(g)

§ 87(2)(b) consistently stated (**BR 02**, **BR 03**, and **BR 04**) that after Det. Peralta and PO Rodriguez acknowledged that the unidentified female had shoplifted, Det. Peralta told him he could be arrested if he did not leave. § 87(2)(b) asked if he could return the stolen property to the § 87(2)(b) and Det. Peralta told him that if kept talking or did not change his tone, he would be arrested. § 87(2)(b) asked what he could be arrested for and Det. Peralta informed him that he could be arrested because he observed § 87(2)(b) hitting the unidentified female. § 87(2)(b) admitted to grabbing the unidentified female's bag, but he never made physical contact with the unidentified female. § 87(2)(b) added in his verified statement (**BR 04**) that Det. Peralta told him to "Shut the fuck up," at the beginning of the incident while he was trying to explain that the unidentified female was shoplifting and that Det. Peralta also said, "Get the fuck out of here," when he threatened to arrest him for not leaving the location.

§ 87(2)(b) stated that while he was speaking to Det. Peralta, he observed PO Rodriguez take the feminine hygiene products out of the unidentified female's bag and place them into a different bag. PO Rodriguez asked § 87(2)(b) if he wanted to press charges and § 87(2)(b) declined and requested to take the items back to the store. PO Rodriguez took the stolen property and drove to the § 87(2)(b) with the unidentified female in the police vehicle while § 87(2)(b) walked with Det. Peralta. At the § 87(2)(b) Det. Peralta and PO Rodriguez spoke to § 87(2)(b) and PO Rodriguez returned the stolen items to § 87(2)(b) stated he did not want to press charges against the unidentified female. The unidentified female told the officers that she wanted to press charges against § 87(2)(b) and Det. Peralta told her to, "Get the fuck out."

§ 87(2)(b) stated (**BR 09**) that § 87(2)(b) Det. Peralta, PO Rodriguez, and the unidentified female entered the store together and Det. Peralta informed him that the unidentified female had shoplifted and asked whether he wanted to press charges. § 87(2)(b) stated he did not want to press charges. Det. Peralta then reached into a cloth handle bag and gave § 87(2)(b) the stolen products. § 87(2)(b) believed the cloth bag may have belonged to the unidentified female. § 87(2)(b) did not recall whether Det. Peralta or PO Rodriguez used any profanity.

Det. Peralta (**BR 05**) and PO Rodriguez (**BR 06**) consistently stated the unidentified female did not accuse § 87(2)(b) of hitting her, that Det. Peralta never told § 87(2)(b) that he could be arrested, and that there was nothing § 87(2)(b) could have been arrested for. Det. Peralta and PO Rodriguez also consistently stated that Det. Peralta never told § 87(2)(b) to "shut the fuck up," and he never told the unidentified female to "get the fuck out," or used any other profanity.

Det. Peralta (**BR 05**) stated that § 87(2)(b) informed them that he worked a beauty supply store, however § 87(2)(b) was not wearing anything that indicated he was working at a store. Det. Peralta could not determine whether § 87(2)(b) or the unidentified female were telling the truth about the items in her bag, so Det. Peralta said, "Let's go to the store," and everyone agreed to walk to the store. When they got to the store, § 87(2)(b) the store manager, confirmed the items were his, but did not want to press charges and just wanted the items back. Det. Peralta did not recall how the items were physically returned to § 87(2)(b) and did not recall handling the items himself or whether he or PO Rodriguez ever took the items out of the unidentified female's

bag.

PO Rodriguez stated (**BR 06**) that he could see the items at the top of the unidentified female's bag because it was open at the top. PO Rodriguez asked the unidentified female whether she had anything that did not belong to her and she admitted to having stolen feminine hygiene products. PO Rodriguez asked the unidentified female to remove the stolen property from her bag and she cooperated. PO Rodriguez did not specify how he instructed the unidentified female to remove the items. PO Rodriguez never reached into the bag himself. PO Rodriguez asked § 87(2)(b) whether he wanted to press charges, and he declined. Then the unidentified female left the location and PO Rodriguez, Det. Peralta, and § 87(2)(b) went to the store to talk to § 87(2)(b)

§ 87(2)(g)

§ 87(2)(g)

Allegation (F) Abuse of Authority: Detective Kelvin Peralta refused to provide his name to

§ 87(2)(b)

Allegation (G) Abuse of Authority: Detective Kelvin Peralta refused to provide his shield number to § 87(2)(b)

Allegation (J) Abuse of Authority: Detective Kelvin Peralta failed to provide § 87(2)(b) **with a business card.**

Allegation (L) Abuse of Authority: Police Officer Ramon Rodriguez failed to provide § 87(2)(b) **with a business card.**

Allegation (M) Abuse of Authority: Detective Kelvin Peralta failed to provide § 87(2)(b) **with a business card.**

Allegation (N) Abuse of Authority: Police Officer Ramon Rodriguez failed to provide § 87(2)(b) **with a business card.**

It was undisputed Det. Peralta and PO Rodriguez were on their way to perform narcotics enforcement prior to the incident. It was happenstance that Det. Peralta and PO Rodriguez drove by § 87(2)(b) and the unidentified female. It was also undisputed that Det. Peralta and PO Rodriguez did not have business cards on them at the time of this incident. § 87(2)(g)

§ 87(2)(b) consistently stated (**BR 02, BR 03, and BR 04**) that he asked Det. Peralta for his name and shield number between five and eight times and for his business card once or twice. § 87(2)(b) asked Det. Peralta for his name and shield toward the beginning of the incident and asked for his name and shield number again, as well as his business card, as they were walking to the § 87(2)(b). § 87(2)(b) observed Det. Peralta's shield on his waist and afterward wrote down the number #1415 which he provided during his intake call with the CCRB (**BR 02**). § 87(2)(b) initially stated (**BR 02**) that Det. Peralta pointed at his shield on his waist and later stated (**BR 03 and BR 04**) that Det. Peralta ignored his requests.

Det. Peralta stated (**BR 05**) that his assignment was performing field work for the narcotics buy and bust operation and he did not have business cards on him. Det. Peralta also stated during his interview and in his memo book (**BR 07**) that he provided his name and shield number to § 87(2)(b) multiple times. § 87(2)(b) asked for Det. Peralta's name, but not his shield number, toward the beginning of the incident and Det. Peralta provided it. Det. Peralta's shield was on display and he observed § 87(2)(b) looking at it. § 87(2)(b) also asked Det. Peralta and PO Rodriguez for their names and shield numbers as they were leaving the § 87(2)(b) and he

and PO Rodriguez verbally provided the information and gave § 87(2)(b) sufficient time to write it down. Det. Peralta's shield number was #1514 at the time of this incident.

PO Rodriguez stated (**BR 06**) that his assignment was buy and bust, narcotics enforcement, and he was in the chase car. § 87(2)(b) asked PO Rodriguez for his name at the end of the incident and PO Rodriguez wrote it down for him on a piece of paper. § 87(2)(b) did not ask for Det. Peralta's name and shield number. PO Rodriguez explained that he did not have business cards with him because he was not required to carry them for the buy and bust assignment.

§ 87(2)(g)

NYC Administrative Code §14-174 (**BR 12**) states that during a pedestrian stop, officers are to offer to provide the person stopped their name, rank, shield number, and command verbally and allow sufficient time for the person to record the information when the officer does not have an adequate number of business cards on his person.

§ 87(2)(g)

§ 87(2)(g)

§ 87(4-b) § 87(2)(g)

§ 87(2)(g)

§ 87(4-b) § 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (**BR 14**).
- Det. Peralta has been a member of service for 14 years and a subject in 20 additional CCRB complaints and 50 allegations, one of which was substantiated.
 - CCRB #201303528 involved one substantiated allegation of a vehicle stop against Det. Peralta. The board recommended Command Discipline A and the NYPD imposed Command Discipline A.
 - § 87(2)(g)
- PO Rodriguez has been a member of service for nine years and a subject in seven additional CCRB complaints and 12 allegations, two of which were substantiated.
 - CCRB #201602090 involved substantiated complaints of a frisk and a search of person against PO Rodriguez. The Board recommended formalized training and the NYPD imposed formalized training.
 - § 87(2)(g)

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- As of January 31, 2020, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regard to this complaint (**BR 15**).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad No.: 10

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

CCRB Case # 201904457

Reviewer:

Signature

Print Title & Name

Date